

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-11975-RWZ

PACIFIC INDEMNITY COMPANY

v.

ALFRED KEMP and
MARTIN SANDBORG

PRETRIAL ORDER

October 12, 2006

ZOBEL, D.J.

This matter having come before the Court at a pretrial conference held pursuant to Rule 16, Fed. R. Civ. P., 28 U.S.C., and Daniel Q. Harrington, having appeared as counsel for plaintiff Pacific Indemnity Company; and Virginia Connelly and John J. Ryan, Jr., having appeared as counsel for defendant Alfred Kemp and Stimpson B. Hubbard and Philip T. Tierney having appeared as counsel for defendant Martin Sandborg, the following action was taken:

1. TRIAL

Trial is scheduled to commence on March 26, 2007, at 9:00 a.m. and is estimated to last five days.

2. JURY

The parties agreed to impanel eight jurors. Each side shall have four peremptory challenges. Counsel shall file proposed questions to the jury on voir dire by March 19, 2007.

3. ISSUES

The parties agree that the only issues to be tried are:

- a. whether defendant Alfred Kemp was negligent in the use of his torch while soldering;
- b. whether defendant Martin Sandborg breached implied warranty of workman-like performance;
- c. whether Kemp's negligence and/or Sandborg's breach caused the fire;
- d. the amount of damages.

The parties agree that the measure of damages is the difference in the value of the house before and after the fire.

4. WITNESSES

On or before March 19, 2007, each party shall file a list of witnesses who will testify at trial. If any party wishes to offer the testimony of any witness by deposition, counsel shall designate the portion or portions of such deposition on or before March 19, 2007. All counter designations and objections to the original designations shall be filed on or before March 20, 2007. All objections to the counter designations shall be filed on or before March 23, 2007.

5. EXHIBITS

Prior to the commencement of trial on March 23, 2007, counsel shall confer with each other concerning any exhibits each intends to offer and note any objections each may have to the exhibits of the other. All exhibits to which opposing counsel do not object shall be deemed to be admitted into evidence. Counsel shall mark these

exhibits, prepare a listing thereof, and file two copies. Objected-to exhibits shall be marked for identification and listed separately.

6. REQUESTS AND QUESTIONS

On the first day of trial, March 26, 2007, counsel shall file:

- a. Requests for instructions; and
- b. Proposed questions to the jury on special verdict.

October 12, 2006
DATE

/s/Rya W. Zobel
RYA W. ZOBEL
UNITED STATES DISTRICT JUDGE